

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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ERICK G. LANDEROS,

Plaintiff,

-against-

P.O. THOMAS M. COSTELLO, Shield 1539;
P.O. "JOHN" SEMETSIK,

Defendants.

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**MEMORANDUM OF
DECISION AND ORDER**
11-CV-4209 (ADS)(ETB)

APPEARANCES:

Erick G. Landeros
Plaintiff Pro Se
148 Merrill Street
Brentwood, NY 11717

Nassau County Attorney's Office
Attorneys for the Defendants
One West Street
Mineola, NY 11501

By: Pablo A. Fernandez, Deputy County Attorney, Of Counsel

SPATT, District Judge.

On August 30, 2011, the plaintiff commenced this action against the defendants alleging violations of 42 U.S.C. § 1983, the Fourth, Fifth, Eighth, and Fourteenth Amendments, as well as various state laws, based on their alleged use of excessive force during his arrest on May 5, 2011.

In a Report and Recommendation dated February 3, 2012, (the "Report"), United States

Magistrate Judge E. Thomas Boyle recommended that this Court dismiss the action without prejudice pursuant to Federal Rules of Procedure 16(f) and 41(b) for the plaintiff's failure to prosecute and to comply with a court order to appear before Judge Boyle on February 2, 2012.

To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. §636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Boyle’s Report and finds it to be persuasive and without any legal or factual errors.

There being no objection to Judge Boyle’s Report, it is hereby

ORDERED, that Judge Boyle’s Report and Recommendation is adopted in its entirety. The Court dismisses the above-captioned case without prejudice pursuant to Federal Rules of Civil Procedure 16(f) and 41(b), and it is further

ORDERED, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 22, 2012

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge